

The Honorable Tana Lin
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT A. BENSHOOF, et al.)	No. 2:24-cv-00343-TL
)	
Plaintiff,)	SHORELINE AND KING COUNTY
v.)	DEFENDANTS' OPPOSITION TO
)	MOTION TO STRIKE
CITY OF SHORELINE, et al.,)	DECLARATION OF ANN
)	SUMMERS
Defendants.)	
)	<i>Noted for November 25, 2024</i>

Plaintiff Benshoof filed this lawsuit on March 11, 2024, and was granted in forma pauperis status. Dkts. 13, 14. Defendants Town & County Markets and Fagan filed a motion to dismiss pursuant to FRCP 12(b) that was re-noted by this Court for September 30, 2024. Dkt. 43, 57. Defendant Shoreline and King County Defendants filed a motion to dismiss pursuant to FRCP 12(c) on August 30, 2024, which was noted for September 30, 2024. Dkt. 59. Benshoof has moved to indefinitely stay this matter due to his current incarceration. Dkts. 62, 67.

Benshoof moves to strike the declaration of undersigned counsel filed on November 1, 2024. Dkts. 77, 79. There is no basis to strike the declaration. The records provided are not irrelevant or immaterial to the issues pending before this Court. The circumstances of Benshoof's incarceration are relevant to his motion for an indefinite stay.

1 Benshoof's continuing objection to counsel's representation of the Deputy Akers and
 2 Detective Thompson in their individual capacities is as meritless as it is tiresome. "The state has a
 3 legitimate interest in providing representation to its employees for suits arising out of the
 4 performance of their duties. It makes no difference whether the acts by the employees are allegedly
 5 legal or illegal because that question can never be resolved until the law suit is at an end."
 6 *Wimberley v. Lynch*, 460 F.2d 316, 317 (9th Cir. 1972). Moreover, there is no dispute as to
 7 counsel's representation of Shoreline, King County, and Deputy Akers and Detective Thompson
 8 in their official capacity.

9 Finally, the objection to official court records from the criminal cases is also without merit.
 10 "A court's official records are considered reliable public records not subject to reasonable dispute
 11 under the Federal Rules of Evidence. They may be noticed for facts concerning what took place
 12 during or in connection with the court proceedings only. This means that a court may notice
 13 another court's records for information regarding how a case progressed, what was argued by the
 14 parties, and on what basis the court ruled on a motion." *Elliott v. Lions Gate Entm't Corp.*, 639 F.
 15 Supp. 3d 1012, 1021 (C.D. Cal. 2022). *See also Rosales-Martinez v. Palmer*, 753 F.d 890, 891
 16 (9th Cir. 2014) (holding that judicial notice of court records from criminal case appropriate).

17 It should be noted that since filing his first motion to stay on September 9, 2024, based on
 18 his purported inability to file documents, Benshoof has submitted multiple pleadings to this Court.

19 Benshoof's motion to strike should be denied.

20 *I certify that this Memorandum contains 419 words in compliance with Local Civil Rules.*

21 DATED this 19th day of November, 2024.

22
 23 LEESA MANION (she/her)
 King County Prosecuting Attorney

By: 

ANN SUMMERS, WSBA #21509
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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on November 19, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF E-filing system which will send automatic notification to the following:

Kurt A. Benshoof
kurtbenshoof1@gmail.com
Pro Se Plaintiff

I also hereby certify that on November 19, 2024, I also sent the same via US Postal Service to the following:

Kurt A. Benshoof
B/A 2024-008067
King County Correctional Facility
500 Fifth Ave.
Seattle, WA 98104

I declare under penalty of perjury under the laws of the United States of America and the State of Washington that the foregoing is true and correct.

DATED this 19th day of November, 2024.


RAFAEL A. MUNOZ-CINTRON
Paralegal I – Litigation Section
King County Prosecuting Attorney's Office